

**IN THE SUPREME COURT OF THE
STATE OF NEVADA.**

Ebenezer Twaddle and Ebenezer Twaddle as Special Admr. of the Estate of Alexander Twaddle, deceased,
Plaintiffs and Respondents
V.
Theodore Winters, A. C. Winters, L. W. Winters and Samuel Longbaugh.,
Defendants and Appellants
From 2d Judicial District Court, Washoe County.
Messrs. Cheney and Massey, attorneys for Plaintiffs,

DECISION

DECISION

The respondents have moved to dismiss the appeal from the judgment because it was not taken within one year, and to dismiss the appeal from the order of the district court denying appellants motion for a new trial, also to strike from the records the statement on motion for a new trial, upon the ground that the statement was not filed within the time prescribed by law. The appeal from the judgment is dismissed because not taken until March, 1905, more than one year after its rendition on June 23, 1903. On that day Judge Curlier of the Second Judicial District court who had tried the case at Reno and rendered the decree, made in open court and had entered in the minutes an order "that all business and all cases and proceedings that have not been completed or in the process of completion, and all new business that may be brought before the court during the absence of the presiding judge, be referred to Judge M. A. Murphy of the first judicial district court of the State of Nevada, and that he be requested to try, determine and dispose of all cases and business now before the court in the absence of the judge of this district."

There is no request Judge Mur-

Pursuant to this request Judge Mur-

Pursuant to this request Judge Murphy occupied the bench in Reno until July 31, 1903, when a recess was taken until a further order of the court. There was no other session until Judge Currier's return on August 17th. On July 17th, Judge Murphy, in open court in Reno, made an order allowing plaintiff until August 15th in which to file objection to findings, and prepare additional findings. On August 3d Judge Murphy at Carson City, and within his own first judicial district, by an ex parte order made without affidavit of Judge Currier's absence or inability, granted to defendants until September 15, 1903, within which to prepare, file and serve their notice and statement on motion for a new trial. Later extensions were made by Judge Currier, but whether they are effectual depends upon this order, which respondents claim Judge Murphy was unauthorized to make under Section 137 of the Practice Act which provides in regard to notices and statements on motions for new trial that "the several periods of time limited may be enlarged."

the written agreement of the parties,
or upon good cause shown by the

the written agreement if the parties or upon good cause shown by the court, or the judge before whom the case is tried," and under district court rule XLIII which directs that "no judge, except the judge having charge of the cause or proceeding shall grant further time to plead, move, or do any act or thing required to be done in any cause or proceeding, unless it be shown by affidavit that such judge is absent from the state, or from some other cause is unable to act."

Rule XLI provides: "When any district judge shall have entered upon the trial or hearing of any cause or proceeding, demurrer or motion, or made any ruling, order or decision therein, no other judge shall do any act or thing in or about said cause or proceeding, demurrer or motion, unless upon written request of the judge who shall have first entered upon the trial or hearing of said cause, proceeding demurrer or motion."

Section 2543 of the Compiled laws

passed after section 197 of the Prac

Justice Act as quoted, enacts: "The district Judges of the State of Nevada shall possess equal coextensive and concurrent jurisdiction and power. They shall each have power to hold court in any county of the State. They shall each exercise and perform the powers, duties and functions of the court, and of Judges thereof, and of Judges at Chambers. Each Judge shall have power to transact business which may be done in chambers at any point within the State. All of this section is subject to the provisions that each Judge may direct and control the business in his own district, and shall see that it is properly performed."

We think under the minute order and circumstances related, the power inherent in Judge Currier to extend the time of filing the notice and statement became conferred upon Judge Murphy during the former's absence and that Judge Murphy became the Judge in charge, endowed with the authority to grant the extension without the presentation of the affidavit showing the absence or inability of Judge Currier, as the rule requires before the order can be made by a Judge not having the business in charge.

Judge Currier's absence was presumed to continue until his return was shown and consequently Judge Murphy's authority based upon that absence would likewise continue. It is said that under the first statute mentioned, the language that "the court or judge before whom the case was tried" may extend the time in vacating the order, because Judge Murphy

Notice is hereby given that the Petitioners
to apply for the beneficial waters of
the State of Nevada, to-wit:

Section 17, Township 12 N., Range 12 E., in the
15th Principal Meridian, as recorded with
Deed No. 10,000, Chapter XLV, of the
Statutes of Nevada, in Plam V. Sigheh
and The Citizens of Carson,
County of Esmeralda and State of Nevada,
their application to the State
Engineer, for permission to
appropriate the public waters of the
State of Nevada, such application to
be made at Wash Canyon creek at
points in the S W 1/4 of section 11,
T 15 N., R. 12 E. by means of a flume
and race and five cubic feet per
second, to be conveyed to points in
T 15 N., R. 12 E., of S W 1/4 of section 11,
T 15 N., R. 12 E., by means of a flume
and race and there used to generate
electrical power. The construction
of said works shall begin before June
1, 1906, and shall be completed up
before June 1, 1907. The water shall
be actually applied to a beneficial use
on or before June 1, 1903.

Signed:

HENRY THURTELL
State Engineer

Over the Sandy Flats of the West

ANNUAL STATEMENT
Of Business of the Nevada Co. for 190
Receipts \$132,652 6
Disbursements 147,864 6
X. M. Hiskey, Cash.

ANNUAL STATEMENT

Of The Germania Life Insurance Com-	
pany of New York.	
Credit paid up	\$ 200,000 00
Assets	55,311,677 71
Liabilities, exclusive of	896
paid and net surplus	30,824,487 00
Income	
Premiums	4,593,455 27
Other sources	1,574,296 43
Total income, 1905	6,275,351 70
Expenditures	
Losses & Mortal Endow-	
ments	2,520,889 00
Dividends	214,162 55
Other expenditures	1,811,713 66
Total expenditures, 1905	4,556,765 21
Business 1905	
Risks written	14,462,833 33
Premiums for first year	4,317,052 33
Death losses paid	1,337,453 33
Nevada Business	
Risks written	15,200 00
Premiums received	4,484 48
Losses paid	1,000 00
Losses incurred	1,000 00
G. HOYT, Secretary.	

ANNUAL STATEMENT

Of The National Life Ins. Co., Of Tr	
U. S. of A.	
Home office, 159 La Salle street	
Chicago, Ill.	
Capital (paid up)	\$ 1,000,000
Assets	6,095,500
Liabilities, exclusive of cap-	1,000,000
ital and net surplus	4,988,396
Income	
Premiums	1,730,567
Other sources	275,007
Total income, 1905	2,005,574
Expenditures	
Losses	351,485
Dividends	1,467
Other expenditures	1,017,955
Total expenditures, 1905	1,370,605
Business 1905	
Risks written	15,211,749
Premiums thereon	295,818
Losses incurred	247,532
Nevada Business	
Policies 5 amount	12,000
ROBERT D. LAY, Secretary	
W. W. OLDS, Manager, Reno, N.	

ANNUAL STATEMENT

Of The Home Life Ins. Co., Of N	
Yerk, New York.	
Capital (paid up)	\$ 125,000
Assets	178,866.594
Liabilities, exclusive of cap	
tal and net surplus	16,682,194
Income	
Premiums	3,211,142
Other sources	829,269
Total income, 1905	4,040,403
Expenditures	
Losses and claims	1,176,566
Dividends	270,237
Other expenditures	1,222,656
Total expenditures, 1905	2,669,460
Business 1905	
Risks written	12,698,429
Premiums thereon	681,869
Losses incurred	759,291
Nevada Business	
Risks written	5,000
Premiums received	2,452
Losses paid	2,500
Losses incurred	none
S. W. GLADWIN, Secy.	

SPECIAL EXCURSION FROM SAN FRANCISCO TO CITY OF MEXICO AND RETURN. DECEMBER 16th, 1905.

A select party is being organized by the Southern Pacific to leave San Francisco for Mexico City, December 15th, 1905. Train will contain first class sleepers and dining car, all the way on going trip. Time limit will be sixty days, enabling excursionists to make side trips from City of Mexico to points of interest. On return trip, stopovers will be allowed at points on the main lines of Mexican Central, Santa Fe or Southern Pacific. An excursion manager will be in charge and make all arrangements. Round trip rate from San Francisco \$80.00.

Pullman berth rate to City of Mexico, \$12.60.

For further information address 'Information Bureau, 618 Market street, San Francisco Cal.

Liberal Offer.

I beg to advise my patrons that the price of disc records (either Victor or Columbia), to take effect immediately, will be as follows until further notice:

Ten inch disks formerly 70 cents
will be sold for 60 cents.

Seven inch records formerly 50c,
now 35c. Take advantage of this of-
fer. C. W. FRIEND.

Notice to Hunters.

Notice is hereby given that any person found hunting without a permit on the grounds owned by Theodore Timbers, will be prosecuted. A limited number of permits will be sold at \$5 for the season or 50 cents for one day.

OFFICE COUNTY AUDITOR
 100 North Main Street, Room 201
 St. Paul, Minnesota 55101

In compliance with the law, I
herewith submit my quarterly re-
port showing receipts and disburse-
ments of the County, during
the quarter, ending Dec. 31, 1905.

Quarterly Report.
Greene County, Nevada.

Receipts.
Filed Feb. 1, 1906.

Balance in County Treasury at	
close of 1940 quarter.....	\$4023 36
County Licenses.....	790 05
Gaming Licenses.....	1957 50
Liquor Licenses.....	310 29
Fee of Co. mill on.....	531 45
Dept of county hold.....	250 00

f	10-11 TAXES	1000	40
	12-13 FURN. HOME IMPROV.	1000	21

State of Alaska.....	27.00	92.50
State of Arizona.....	282.00	00
State of Arkansas.....	12.37	00
State of California.....	297.75	00
State of Colorado.....	22.00	00
State of Connecticut.....	10.00	00
State of Delaware.....	143.00	00
State of Florida.....	45.00	00

Total	41,077 30 1/2
Disbursements.	2200 00 00

State Fund	2733.29
General fund	2390.00
Agri Assn Bond Fund, Series	
A \$100.00	250.00
Agri Assn Bond Fund, Series	
B \$100.00	400.00
Co. School Fund, Dist. 1	388.95
Co. School fund, Dist. 2	351.29

Co. School fund Dist. 3.....	30 70
Co. School Fund Dist. 4.....	21 09

State School fund, Dist. 1.	2,267.00
State School fund, Dist. 2.	1,166.00
State School fund, Dist. 3.	1,129.00
State School fund, Dist. 4.	1,165.00
Special building	5,850.00
School library, No. 2.	56.00
Total	21,968.59

Re capitulation.

Cash in Treasury October 1905
..... 40023 36 1/2

Receipts from Oct. 1st to Dec	
30, 1905	2154 00%
Disbursements from Oct. 1st	
to Dec 30, 1905	21968 59%
Balance cash in County Treas.	
January 1, 1906	29108 77%
H. DIETERICH,	

56	County Auditor
57	Recapitulation
58	State Fund
59	103.86

General fund	6,017 03
Salary fund	2,725 78
Co. School fund	3,248 71
Co. School Dist. 1, fund.....	7,638 22
Co. School Dist. 2, fund.....	139 64
Co. School Dist. 3, fund.....	190 26
Co. School Dist. 2, fund.....	425 65

State School Dist 1, fund.....	1608	06
State School Dist 2, fund.....	77	51

11-	State School Dist. 3, fund...	371 39
	State School Dist. 3, fund...	371 33
in	State School Dist. 4, fund.....	19 23
32	Agl. Assn. Fund A.....	650 82 1/4
4d	Agl. Assn Fund, B.....	86 86 1/4
	Agl. Assn Fund Special.....	1918 94
5e-	Co. School Dist. fund - special	

Co. School Dist. fund 1 library

Co. School Dist. fund 1, library	108 46
Co School Dist. fund 2, library	c 5
Co. School Dist. fund 4, library	c 10
Total	3108 77

H. B. VAN RITTEN
County Treasurer